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8 DARYL ANTHONY BEULAH,
9 Plaintiff,
10 v.
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12 KYLE COX, et al.,
13 Defendants.
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16 Case No. 24-cv-09478 BLF
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18 **ORDER OF DISMISSAL WITH**
19 **LEAVE TO AMEND**

20 Plaintiff, a state prisoner, filed a civil rights complaint pursuant to 42 U.S.C. § 1983
21 against staff at the San Quentin Rehabilitation Center (“SQRC”). The signed complaint
22 filed on January 9, 2025, is the operative complaint in this action. Dkt. No. 4. Plaintiff’s
23 motion for leave to proceed *in forma pauperis* will be addressed in a separate order.

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28 **DISCUSSION**

I. **Standard of Review**

A federal court must conduct a preliminary screening in any case in which a
prisoner seeks redress from a governmental entity or officer or employee of a
governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the court must identify any

1 cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim
2 upon which relief may be granted or seek monetary relief from a defendant who is immune
3 from such relief. *See id.* § 1915A(b)(1),(2). Pro se pleadings must, however, be liberally
4 construed. *See Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988).

5 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
6 elements: (1) that a right secured by the Constitution or laws of the United States was
7 violated, and (2) that the alleged violation was committed by a person acting under the
8 color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

9 **II. Plaintiff’s Claims**

10 Plaintiff claims that on March 30, 2024, he passed out and fell due to the excessive
11 heat in the gym. Dkt. No. 4 at ¶¶ 2, 9. He suffered a severe head injury with a gash across
12 his left eyebrow that required stitches at an outside medical center. *Id.* ¶¶ 3, 4. He also
13 suffered a swollen index finger and knee, as well as blurred vision from a concussion,
14 lightheadedness, and pain to the left side of his face. *Id.* On April 4, 2024, Plaintiff
15 inquired of Correctional Officer Alvarado, who was assigned to the gym, about the
16 excessive heat that had caused his incident on March 30, 2024. *Id.* ¶ 5. She informed
17 Plaintiff that she had placed numerous work orders with Central Services to get the heat
18 issue resolved and that they were ignored. *Id.* She advised him to file a CDCR 22 Form
19 (request for interview) with Captain Zachariah Robberecht (Central Services). *Id.*
20 Plaintiff did so on April 7, 2024, and again on April 22, 2024; he received no response. *Id.*
21 ¶ 6. He filed a grievance (Log No. 555758) on May 1, 2024, against K. Cox (Plant
22 Manager) “for failure to adjust and control the extreme heat temperature in the gym which
23 caused [Plaintiff] to pass-out and caused severe injury.” *Id.* ¶ 9. On May 24, 2024, the
24 Office of Grievances Decision denied the claim stating that there was no policy violation.
25 *Id.* ¶ 10. Plaintiff appealed the decision to the Office of Appeals, which denied the claim
26 on August 10, 2024. *Id.* ¶ 11.

1 Plaintiff is suing Defendants Zachariah Robberecht and K. Cox for the following:
2 (1) Eighth Amendment violation due to the hazardous condition of confinement (excessive
3 heat) which caused him injury; and (2) negligence. *Id.* ¶¶ 14-23. Plaintiff seeks damages.
4 *Id.* at 9.

5 The Constitution does not mandate comfortable prisons, but neither does it permit
6 inhumane ones. *See Farmer v. Brennan*, 511 U.S. 825, 832 (1994). The treatment a
7 prisoner receives in prison and the conditions under which he is confined are subject to
8 scrutiny under the Eighth Amendment. *See Helling v. McKinney*, 509 U.S. 25, 31 (1993).
9 The Eighth Amendment imposes duties on these officials, who must provide all prisoners
10 with the basic necessities of life such as food, clothing, shelter, sanitation, medical care
11 and personal safety. *See Farmer*, 511 U.S. at 832; *DeShaney v. Winnebago County Dep't*
12 *of Social Servs.*, 489 U.S. 189, 199-200 (1989). A prison official violates the Eighth
13 Amendment when two requirements are met: (1) the deprivation alleged must be,
14 objectively, sufficiently serious, *Farmer*, 511 U.S. at 834 (citing *Wilson v. Seiter*, 501 U.S.
15 294, 298 (1991)), and (2) the prison official possesses a sufficiently culpable state of mind,
16 *id.* (citing *Wilson*, 501 U.S. at 297).

17 A prison official is deliberately indifferent if he knows that a prisoner faces a
18 substantial risk of serious harm and disregards that risk by failing to take reasonable steps
19 to abate it. *Farmer*, 511 U.S. at 837. The prison official must not only “be aware of facts
20 from which the inference could be drawn that a substantial risk of serious harm exists,” but
21 “must also draw the inference.” *Id.* If a prison official should have been aware of the risk,
22 but did not actually know, the official has not violated the Eighth Amendment, no matter
23 how severe the risk. *Gibson v. County of Washoe*, 290 F.3d 1175, 1188 (9th Cir. 2002). In
24 order for deliberate indifference to be established, therefore, there must be a purposeful act
25 or failure to act on the part of the defendant and resulting harm. *See McGuckin v. Smith*,
26 974 F.2d 1050, 1060 (9th Cir. 1992), *overruled in part on other grounds by WMX*

1 *Technologies, Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc); *Shapley v.*
2 *Nevada Bd. of State Prison Comm’rs*, 766 F.2d 404, 407 (9th Cir. 1985).

3 Plaintiff’s allegations are insufficient to state an Eighth Amendment claim against
4 Defendants Robberecht and Cox. Assuming the excessive heat of the gym constitutes a
5 hazardous condition to satisfy the first element, Plaintiff fails to satisfy the second element
6 involving Defendants’ subjective state of mind. He alleges that Defendants were
7 deliberately indifferent because they knew of the excessive heat and provided two
8 inadequate industrial fans to mitigate the stifling heat, which “only moved the hot air in
9 resulting injury to [Plaintiff].” Dkt. No. 4 at ¶ 17. He also alleges that Defendants were
10 deliberately indifferent when they ignored custody staff’s work orders to reduce the
11 excessive heat which resulted in injury. *Id.* at ¶ 18. Neither of these allegations establish
12 that each Defendant knew Plaintiff faced a substantial risk of serious harm and disregarded
13 that risk by failing to take reasonable steps to abate it. *Farmer*, 511 U.S. at 837.
14 Specifically, there is no allegation that Defendants were aware that *Plaintiff* would be
15 going to the gym on March 30, 2024, and that *Plaintiff* was facing a substantial risk of
16 serious harm due to the excessive heat and yet failed to take reasonable steps to abate the
17 risk to him. *See McGuckin*, 974 F.2d at 1060. If Defendants should have been aware, but
18 did not actually know, they did not violate the Eighth Amendment, no matter how severe
19 the risk. *See Gibson*, 290 F.3d at 1188. At best, Plaintiff’s allegations may be sufficient to
20 state a negligence claim against Defendants, but negligence and gross negligence are not
21 actionable under § 1983 in the prison context. *See Farmer*, 511 U.S. at 835-36 & n.4.

22 Plaintiff shall be granted one opportunity to file an amended complaint to attempt to
23 state sufficient facts to state a cognizable Eighth Amendment claim. Specifically, Plaintiff
24 must be able to allege in good faith that each named Defendant possessed a sufficiently
25 culpable state of mind. *See Farmer*, 511 U.S. at 834 (citing *Wilson*, 501 U.S. at
26 297). Furthermore, only if Plaintiff is able to state a cognizable claim under § 1983 will

1 the Court consider exercising supplemental jurisdiction over the related state law claim for
2 negligence under 28 U.S.C. § 1337 (1993). If Plaintiff is not able to state an Eighth
3 Amendment claim, the Court will dismiss this action to pursuing a negligence claim in
4 state court.

5 In preparing an amended complaint, Plaintiff should keep the following principles
6 in mind. Liability may be imposed on an individual defendant under § 1983 only if
7 Plaintiff can show that the defendant proximately caused the deprivation of a federally
8 protected right. *See Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988); *Harris v. City of*
9 *Roseburg*, 664 F.2d 1121, 1125 (9th Cir. 1981). A person deprives another of a
10 constitutional right within the meaning of section 1983 if he does an affirmative act,
11 participates in another's affirmative act or omits to perform an act which he is legally
12 required to do, that causes the deprivation of which the plaintiff complains. *See Leer*, 844
13 F.2d at 633.

14 CONCLUSION

15 For the reasons state above, the Court orders as follows:

16 1. The complaint is **DISMISSED with leave to amend**. Within **twenty-eight**
17 **(28) days** from the date this order is filed, Plaintiff shall file an amended complaint using
18 the court's form complaint to correct the deficiencies described above. The amended
19 complaint must include the caption and civil case number used in this order, *i.e.*, Case No.
20 C 24-cv-09478 BLF (PR), and the words "AMENDED COMPLAINT" on the first page.
21 Plaintiff must answer all the questions on the form in order for the action to proceed.
22 Plaintiff is reminded that the amended complaint supersedes the original, and Plaintiff may
23 not make references to the original complaint. Claims not included in the amended
24 complaint are no longer claims and defendants not named in an amended complaint are no
25 longer defendants. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.1992).

1 2. Failure to respond in accordance with this order by filing an amended
2 complaint in the time provided will result in the dismissal of this action for failure to
3 state a cognizable claim without further notice to Plaintiff.

4 3. The Clerk shall include two copies of the court's complaint with a copy of
5 this order to Plaintiff.

6 **IT IS SO ORDERED.**

7 Dated: April 17, 2025


BETH LABSON FREEMAN
United States District Judge